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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14
15 FIONA HARVEY,
16 Plaintiff,

17 v.

18 NETFLIX, INC. and NETFLIX
19 WORLDWIDE ENTERTAINMENT,
LLC,

20 Defendants.
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Case No. 2:24-cv-04744-RGK-AJR

Hon. R. Gary Klausner

**DECLARATION OF BRIAN
LEVENSON IN SUPPORT OF JOINT
STIPULATION SETTING BRIEFING
SCHEDULE ON DEFENDANTS'
SPECIAL MOTION TO STRIKE AND
MOTION TO DISMISS PLAINTIFF'S
COMPLAINT AND CONTINUING
HEARING AND RULE 16(B)
SCHEDULING CONFERENCE**

1 I, BRIAN LEVENSON, hereby declare and state as follows:

2 1. I am an attorney admitted to practice law in the State of New York,
3 Southern and Eastern Districts of New York, the Second Circuit Court of Appeals
4 and was admitted *pro hac vice* in this action. I am a partner at The Roth Law Firm,
5 PLLC and counsel of record for Plaintiff Fiona Harvey. I submit this declaration
6 based upon my personal knowledge and, if called as a witness, could and would
7 testify to the matters set forth below.

8 2. This declaration is submitted in support of Plaintiff Fiona Harvey's
9 and Defendants Netflix Inc.'s, and Netflix Worldwide Entertainment LLC's Joint
10 Stipulation Setting Briefing Schedule on Defendants' Special Motion to Strike and
11 Motion to Dismiss Complaint and Continuing Hearing and Rule 16(b) Scheduling
12 Conference.

13 3. Defendants filed their Special Motion to Strike and Motion to Dismiss
14 the Complaint on July 29, 2024 in accordance with the joint stipulation extending
15 Defendants' time to respond to the Complaint pursuant to Local Rule 8-3 (ECF
16 No. 21), and noticed the hearing on both motions for September 3, 2024.

17 4. On July 31, 2024, the parties conferred and agreed to stipulate to (i)
18 extend Plaintiff's deadline to file oppositions to Defendants' Special Motion to
19 Strike (ECF No. 26) and Defendants' Motion to Dismiss the Complaint (ECF No.
20 28) from August 13, 2024 to September 9, 2024; extend Defendants deadline to
21 file replies in support of Defendants' Special Motion to Strike and Defendants'
22 Motion to Dismiss from August 20, 2024 to September 23, 2024; continue the
23 hearing on Defendants' Special Motion to Strike and Motion to Dismiss Complaint
24 from September 3, 2024 to October 15, 2024; and continue the Rule 16(b)
25 Scheduling Conference from September 9, 2024 to October 28, 2024.

26 5. If granted, this would be Plaintiff's first extension of time in this case
27 and Defendants' first extension of time in this case requiring leave of court.
28

1 6. This stipulation will not affect any other deadlines that have been
2 currently set by the Court.

3 **Good Cause Exists for Granting the Extension**

4 7. Good cause exists for the extending Plaintiff's time to file oppositions
5 to Defendants' Motion to Dismiss the Complaint and Defendants' Special Motion
6 to Strike due to Defendants' citation to over 90 cases, inclusion of 60 exhibits,
7 requests for judicial notice for 23 additional documents, the complexity and
8 number of legal issues raised in Defendants' motions, and Plaintiff's counsel's
9 scheduled family vacations in August 2024.

10 8. Defendants filed two motions, a Motion to Dismiss the Complaint and
11 a Special Motion to Strike, each of which must currently be responded to within 14
12 days (by August 13, 2024).

13 9. Defendants' Motion to Strike is particularly overwhelming.
14 Defendants' Motion to Strike includes 40 pages of declarations from three fact
15 witnesses (ECF Nos. 23-1, 26-4, 26-27), a 31-page expert witness declaration
16 (ECF No. 26-3), approximately 60 exhibits (ECF Nos. 23-2 to 23-59; 26-28 to
17 26:43), and a request for judicial notice for an additional 16 exhibits (ECF Nos. 26-
18 6 to 26-26) each of which must be separately reviewed, investigated and
19 substantively responded to. Defendants' Motion to Strike cites 45 cases and makes
20 numerous complicated legal arguments concerning Plaintiff's causes of actions and
21 legal doctrines of protected activity and public interest. Given that Defendants'
22 Motion to Strike was made on a factual basis, 14 days is not a sufficient amount of
23 time to closely review all of Defendants' motion papers, investigate Defendants'
24 factual claims, some of which date back more than 20 years (ECF Nos. 26-5 ¶ 29-
25 30, 36), and for Plaintiff to conduct her own investigation of the claims raised in
26 support of Defendants' Special Motion to Strike.

1 10. Second, Defendants' Motion to Dismiss cites an additional 47 cases,
2 almost of which are distinct from the 45 cases cited in Defendants' Motion to
3 Strike. Defendants' Motion to Dismiss also seeks judicial notice of 7 additional
4 documents each of which must be reviewed and responded to (ECF No. 28-2 to 28-
5 10), and three thumb drives of material that must be reviewed. (ECF No. 29). 14
6 days is an insufficient amount of time to respond to Defendants' Motion to Dismiss
7 and Requests for Judicial Notice, particularly in light of the Defendants'
8 contemporaneously filed Special Motion to Strike.

9 11. Plaintiff's counsel, The Roth Law Firm, currently consists of two full-
10 time attorneys, Richard A. Roth and Brian Levenson, both of whom are counsel in
11 this case. The firm has a busy litigation practice including trial dates that were
12 completed this week which requires some amount of "catch-up" on all other
13 matters, including two other dispositive motions that must be briefed at the same
14 time as these motions.

15 12. While a shorter extension may otherwise be sufficient, such a shorter
16 extension would conflict with Plaintiff's counsel's summer family vacations that
17 were planned long in advance of not only the filing of this action, but the release of
18 the television series at issue, *Baby Reindeer*, in April 2024. Levenson has a family
19 vacation scheduled for August 17-24, 2024, and Roth has a family vacation
20 scheduled for August 24-31, 2024. Plaintiff's local counsel, Allen Hyman, is a solo
21 practitioner with a busy law office and not tasked with briefing oppositions to
22 Defendants' motions.

23 13. Given the multiple motions, voluminous exhibits, requests for judicial
24 admission of dozens of other supporting documents, and Plaintiff's counsel's
25 scheduled vacations, good cause exists for extending Plaintiff's time to file
26 oppositions to Defendants' Motions to Dismiss and Special Motion to Strike from
27 August 13, 2024 to September 9, 2024.

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1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct to the best of my knowledge,
3 information and belief.
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5 Executed this 1st day of August, 2024 at New York, New York.
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7 By: /s/ Brian Levenson
8 Brian Levenson
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